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Thwarting Speech on College Campuses

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Thwarting Speech on College Campuses

By Stephen J. Wermiel



We present here companion articles on the subject of protesters interrupting or otherwise thwarting speakers with whom they disagree, an issue that has gained national attention primarily on college campuses.

These articles are intended to offer context for a discussion that is taking place at different levels in our society and that is reflected in articles in this issue of *Human Rights*. At a specific level, there is debate about the extent to which college campuses should be places for the exchange of ideas, even those that are offensive to some students, or should be safe havens where some hateful, provocative ideas are off-limits. At a broader level, this is a question about how our nation wants to deal with speech that may be deeply offensive to entire segments of the population.

In one article, Professor Josh Blackman of South Texas College of Law in Houston describes his experience when invited by the Federalist Society to give a talk at City University of New York Law School. His speech was disrupted by students who would not let him begin the talk for several minutes. He even-

tually scrapped his prepared remarks and talked informally with those who had invited him and wanted to hear him.

Blackman generally falls on the conservative side of the spectrum, and his experience is similar to those that other conservatives have encountered on college campuses. Forms of protest by liberal students have ranged from interrupting speeches to physically blocking the access of speakers to lecture halls to demanding that administrators disinvite controversial figures.

Some of these protests have been aimed at a handful of conservative speakers who advance provocative and controversial views connected to white supremacy and disparaging others, including feminists, Jews, LGBTQ persons and groups, and more.

In the other article, we describe similar experiences encountered by liberal speakers, although unlike Professor Blackman, we were unable to get the speakers, themselves, to contribute directly. Protests against liberal speakers have drawn less media attention and appear to be less frequent.

Silencing Liberal Speakers

When Claire Guthrie Gastañaga visited the College of William and Mary in October 2017, she intended to discuss freedom of speech, the topic she was invited to address. Instead, the executive director of the American Civil Liberties Union (ACLU) of Virginia found her talk in Williamsburg, Virginia, disrupted by a campus Black Lives Matter student group (<https://www.insidehighered.com/quicktakes/2017/10/05/aclu-speaker-shouted-down-william-mary>). The students were upset that the ACLU supported the right of white nationalists to demonstrate in August 2017 in Charlottesville, Virginia, a rally that turned violent and led to the death of a counter-demonstrator who was run down by a car.

A week after Gastañaga's experience at William and Mary, California Attorney General Xavier Becerra, a progressive Democrat, was heckled and largely prevented from conducting a planned public question-and-answer session at Whittier College in Whittier, California, near Los Angeles. According to a published account, the event was organized by Ian Calderon, the majority leader of the California Assembly, and was intended to be a 60-minute session with Becerra addressing questions submitted by the audience (<https://www.thefire.org/hecklers-shout-down-california-attorney-general-assembly-majority-leader-at-whittier-college>). But hecklers wearing hats with the slogan of President Trump, "Make America Great Again," shouted insults and largely prevented Becerra from being able to answer audience queries. The protest was apparently aimed at Becerra's lawsuit against Trump's decision to rescind the DACA (Deferred Action for Childhood Arrivals) immigration program. At least one of those leading the disruption reportedly has a track record of heckling Democratic speakers.

Most of the publicity about campus free speech incidents has involved disruption of conservative speakers by liberal students who do not want to hear views they deem offensive. But the incidents at William and Mary and Whittier involved the less common disruption of liberal speakers.

In the William and Mary incident, the Black Lives Matter student group expressed frustration with the ACLU's defense of what they described as speech defending white supremacy and racism. The students chanted, "ACLU, you protect Hitler, too," and "ACLU, free speech for who?" William and Mary's president at the time, W. Taylor Reveley III, said in a statement, "Silencing certain voices in order to advance the cause of others is not acceptable in our community. . . . William & Mary must be a campus that welcomes difficult conversations, honest debate and civil dialogue."

Silencing of a Conservative Speaker

By Josh Blackman

In the spring of 2017, the Federalist Society Chapter at the City University of New York (CUNY) School of Law invited me to deliver a lecture titled "The Importance of Free Speech on Campus." It was a talk that I had given many times before without controversy. Three days before the event, the president of the Chapter wrote, "We passed out the flyers today (first day back from spring break) and a large number of students are already up in arms about the event." The Office of Student Affairs explained that "some enraged students . . . apparently, are planning to protest." I had never been protested before and strongly doubted that there would actually be a demonstration. I was wrong.

When I arrived on campus, CUNY's chief of public safety explained that a few dozen students were already assembled in the hallway outside the room. Then, he asked me what my "exit plan" was. He explained that there were certain safe ways to exit the building. As I walked to the classroom, students shouted at me and held up signs calling me a white supremacist, a fascist, and other slanders. For the first eight minutes of the hour-long lecture, a dozen students surrounded me—standing inches away—and shouted at me every time I opened my mouth. The obstruction only ended after I began to engage the protesters. When I explained that—contrary to their false charges—I support the DREAM (Development, Relief, and Education for Alien Minors) Act, one law student could only respond by screaming "F*ck the law!" With nothing of substance to say, one student actually mumbled, "I don't want to hear this." The protesters exited the room.

After the protesters left, I took questions from the students for over an hour. I did not present any of my prepared remarks, but it didn't matter. I spoke on originalism, textualism, the separation of powers, about DACA (Deferred Action for Childhood Arrivals), affirmative action, criminal procedure, and a wide range of other topics. The conversation was civil and professional. I was very proud of the students who stayed till the end.

To my knowledge, CUNY never disciplined any of the students who disrupted the talk. Mary Lu Bilek, the dean of the Law School, defended her students. Because of the interruption's short duration, she insisted that "limited protest was a reasonable exercise of protected free speech." Students now have a blank check to shut down speech they dislike, so long as they do so briefly. Following the event, no one from the CUNY administration or faculty contacted me to explain what happened, let alone to apologize. I am relieved by the handful of students who wanted to hear me speak—even if they disagreed with me. Yet, if the CUNY protest is the canary in the coal mine, the future of free expression in America looks bleak.

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